APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,396	09/23/2003	John C. Goodwin III	11486.00	2509

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EXAMINER
ARAQUE JR, GERARDO

ART UNIT	PAPER NUMBER
3689	

MAIL DATE	DELIVERY MODE
05/12/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/668,396	GOODWIN, JOHN C.
Office Action Summary	Examiner	Art Unit	
	Gerardo Araque Jr.	3689	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>09 April 2008</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-7,14-18 and 21</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-7,14-18 and 21</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All b) ☐ Some * c) ☐ None of:

         1. ☐ Certified copies of the priority documents have been received.

         2. ☐ Certified copies of the priority documents have been received in Application No. _____.

         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Specification

1.   The specification has not been checked to the extent necessary to determine the

presence of all possible minor errors. Applicant's cooperation is requested in correcting

any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   **Claim 1 – 7, 14 – 18, and 21** are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Bowers et al. (US Patent 6,025,780)** in view of **Otto (US PGPub**

2003/0177053 A1).

4.   In regards to **claim 1**, **Bowers** discloses a method of distinguishing items for sale

by a store from personal items brought into the store by a shopper comprising the steps

of:

storing stored item identification information associated with radio frequency

identification (RFID) labels on items for sale by the store in an inventory file **(Col. 2**

Lines 15 – 20; Col. 6 Lines 50 – 53; Col 12 Lines 6 - 8);

reading RFID labels of items read by an RFID label reader as part of a purchase

transaction to obtain identification information **(Col. 1 Lines 22 – 45)**;

comparing the read identification information to the stored identification

information to determine whether each read RFID label is associated with an item for

sale **(Col. 2 Lines 29 – 34, 49 - 53)**; and

ignoring the read identification information of any read RFID labels determined

not to be associated with an item for sale as being associated with the personal items

brought into the store by the shopper **(Col. 9 - 10 Lines 15 – 33)**.

Bowers discloses all of the above limitations, but fails to explicitly disclose:

storing costs for items for sale in a price look-up file;

utilizing the item identification information for each read RFID label associated

with an item for sale to obtain the cost for the item from the price look-up file.

Otto discloses that it is old and well known to use RFID labels in a retail

environment. **Otto** further discloses that it is also old and well known for RFID labels to

be used as a means of looking up price information in a price look up file within the retail

system **(Fig. 1; Page 1 ¶ 20)**.

Therefore, it would have been obvious to one having ordinary skill in the art at

the time of the invention to modify **Bowers** in view of the teachings of **Otto** to include

the added feature of having an RFID label as a means to looking up cost information in

a price look-up file.

5.   In regards to **claim 2**, **Bowers** discloses completing the purchase transaction for

items having RFID labels associated with items for sale **(inherently included)**; and

updating the inventory file to mark any items for which the purchase transaction

was completed as sold **(Col. 2 Lines 15 – 26; Col. 9 - 10 Lines 15 – 33)**.

6.   In regards to **claim 3**, **Bowers** discloses reading the RFID labels to obtain item

identification information for an item read as the shopper exits the store **(Col. 9 - 10**

Lines 15 – 33);

        utilizing the updated inventory file to determine if the RFID label are associated a

personal item, items for sale, or sold items **(Col. 9 - 10 Lines 15 – 33)**.

7.   In regards to **claim 4**, **Bowers** discloses displaying an alert on a security read

display if it is determined the item is an item for sale **(Col. 10 Lines 5 – 12)**.

8.   In regards to **claim 5**, **Bowers** discloses utilizing transaction software to create a

shopper transaction to create a shopper transaction record identified by a unique

transaction number and indicating purchased items of a receipt **(Col. 9 - 10 Lines 54 –**

5).

9.   In regards to **claim 6**, **Bowers** fails to explicitly disclose utilizing a card reader to

accept a payment card.

        However, **Bowers** does disclose that the method and system is used in a retail

environment. It would have been obvious to one having ordinary skill in the art that

there are several methods of making a payment at a retail store, which would include

the use of a credit card, gift card, or the like. As a result, it would have been obvious for

a card reader to be present in order to carry out such a transaction.

        Therefore, it would have been obvious to one having ordinary skill in the art at

the time of the invention in view of the teachings of **Bowers** to include a card reader in

the event that the customer would pay for the items with a credit card, gift card, or the

like.

10.   In regards to **claim 7**, **Bowers** discloses purging items marked as sold from the
inventory file **(Col. 3 Lines 8 – 11)**.

11.   In regards to **claim 14**, **Bowers** discloses a system for distinguishing items for
sale by a store from personal items brought into the store by a shopper comprising:

a label reader for reading radio frequency identification (RFID) label on items the
shopper possesses at the time of a purchase transaction **(Col. 1 Lines 27 – 36)**;

memory for storing an inventory file of stored item identification information
associated with RFI labels on items for sale by the store **(Col. 2 Lines 15 – 26)**; and

a computer for obtaining identification information from the RFID labels on the
items the shopper possesses from the label reader, for comparing the read identification
information to the stored identification information associated with the items for sale by
the store to determine whether each read RFID label is associated with an item for sale,
, and for ignoring the read identification information of any read RFID labels determined
not to be associated with an item for sale as being associated with the personal items
brought into the store by the shopper **(Col. 9 - 10 Lines 15 – 33)**.

Bowers discloses all of the above limitations, but fails to explicitly disclose:

memory for storing costs for items for sale in a price look-up file;

utilizing the item identification for each read RFID label associated with an item
for sale to obtain the cost for the item from the price look-up table.

Otto discloses that it is old and well known to use RFID labels in a retail
environment. **Otto** further discloses that it is also old and well known for RFID labels to

be used as a means of looking up price information in a price look up file within the retail system **(Fig. 1; Page 1 ¶ 20)**.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Bowers** in view of the teachings of **Otto** to include the added feature of having an RFID label as a means to looking up cost information in a price look-up file.

12.   In regards to **claim 15**, **Bowers** discloses, wherein the computer comprises a transaction computer which is operated to complete a purchase transaction for items having RFID labels associated with an item for sale **(Col. 9 - 10 Lines 15 – 33)**.

13.   In regards to **claim 16**, **Bowers** discloses wherein the computer further operates to update the inventory file to mark any items for which the purchase transaction was completed as sold **(Col. 1 Lines 15 – 26)**.

14.   In regards to **claim 17**, **Bowers** discloses a security computer which determines that said label read as the shopper exits the store are for items for sale and not marked sold **(Col. 10 Lines 5 – 12)**.

15.   In regards to **claim 18**, **Bowers** discloses wherein the security computer controls display of an alert on a security display if it is determined any label read as the shopper exits the store is for an item for sale and not marked sold **(Col. 10 Lines 5 – 12)**.

16.   In regards to **claim 21**, **Bowers** discloses, wherein the computer also purges the inventory file to eliminate any items marked as sold **(Col. 3 Lines 8 – 11)**.

Response to Arguments

17.   Applicant's arguments with respect to **claims 1 – 7, 14 – 18, and 21** have been

considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Gerardo Araque Jr. whose telephone number is

(571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM -

4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. A./
Examiner, Art Unit 3689
4/30/08

/Dennis Ruhl/
Primary Examiner, Art Unit 3689